

AMENDED IN SENATE APRIL 20, 2015

SENATE BILL

No. 585

Introduced by Senator Leyva

February 26, 2015

An act to add Article 7.5 (commencing with Section 13550) to Chapter 2 of Division 3 of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 585, as amended, Leyva. Insurance payments: interception.

Existing law creates the Department of Child Support Services and provides for the interception of funds from state tax refunds, lottery winnings, unemployment compensation benefits, and benefits under the Public Employees' Retirement System that otherwise would be paid to a person owing past due child support. Existing law creates the Department of Insurance, headed by the Insurance Commissioner, and prescribes the department's powers and duties.

This bill would, *beginning July 1, 2016*, create the Insurance Payment Intercept Program within the Department of Insurance. The bill would require the Department of Insurance to consult with the Department of Child Support Services to develop a program requiring an insurer or a self-insurer, each as defined, to notify the Department of Child Support Services of a claim owed to a person owing a duty of child, spouse, or family support, defined as an "obligor." The bill would also require the Department of Insurance to establish a procedure identifying the types of claims that the commissioner determines to be properly subject to withholding to satisfy a child support obligation, and prescribing the duties of an insurer's or self-insurer's reporting obligations necessary to implement the bill's provisions. *Child Support Services to facilitate a data match system using automated data exchanges through which*

an insurer or self-insurer would be required to report, no later than 30 days prior to a claim payout, the name, address, and, if known, date of birth and social security number or other taxpayer identification number for each claimant to match a claimant who owes past due support, as specified.

This bill would authorize the commissioner, in his or her discretion, to impose a fine, not to exceed \$1,000, upon an insurer or self-insurer who violates the bill's requirement to provide claim data. The bill would additionally authorize the commissioner to issue an order requiring the violator to comply with that requirement.

Existing constitutional provisions require that a statute that limits the right of access to meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by that limitation and the need for protecting that interest.

This bill would make a legislative finding and declaration relating to the necessity of treating insurance claims data and any past due support information obtained by the Department of Child Protective Services as confidential in order to protect the privacy of individual claimants and persons owed past due support.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Article 7.5 (commencing with Section 13550) is
2 added to Chapter 2 of Division 3 of the Insurance Code, to read:

3
4 Article 7.5. Insurance Payment ~~Interception~~ *Intercept Program*
5

6 13550. In furtherance of the enforcement of child support
7 obligations in the state, and to enhance efforts to notify the
8 Department of Child Support Services when an obligor is owed
9 an insurance claim payment, this article establishes and authorizes
10 the Insurance Payment Intercept Program.

11 ~~13552. The department shall consult with the Department of~~
12 ~~Child Support Services to develop a program requiring an insurer~~
13 ~~or a self-insurer to notify the Department of Child Support Services~~
14 ~~of a claim owed to an obligor. The department shall establish a~~
15 ~~procedure identifying the types of claims that the commissioner,~~

~~in his or her discretion, determines to be properly subject to withholding to satisfy a child support obligation. That procedure shall prescribe an insurer's or self-insurer's reporting obligations necessary to implement this article. The department shall incorporate into its written guidance each of the procedures set forth in this section.~~

13552. (a) The Department of Child Support Services shall facilitate a child support data match system using automated data exchanges to the maximum extent feasible, through which an insurer or self-insurer shall report, no later than 30 days prior to a claim payout, the name, address, and, if known, date of birth and social security number or other taxpayer identification number for each claimant.

(b) An insurer or self-insurer may provide the claim data required pursuant to subdivision (a) by any of the following methods:

(1) Submitting the required claim data maintained by the insurer or self-insurer directly to the Department of Child Support Services in hard copy or in an electronic medium.

(2) Authorizing an insurance claim data collection organization, to which the insurer or self-insurer subscribes and submits the required claim data, to conduct a data match of all claimants who owe past due support and to submit the required data for each claimant to the Department of Child Support Services.

(3) Receiving or accessing a data file from an insurance claim data collection organization and conducting a data match of all claimants who owe past due support and submitting the required data for each claimant to the Department of Child Support Services.

(c) An insurance claim data collection organization acting on behalf of the Department of Child Support Services shall submit the required data for each claimant to the Department of Child Support Services.

13554. For purposes of this article, the following terms have the following meanings:

(a) (1) "Claim" means any of the following:

(A) Coverage for an open, unresolved, bodily injury claim that is payable by an insurer or self-insurer to an individual, or to a third party for the benefit of the individual, who is a resident of the state for the following types of insurance:

1 (i) “Automobile liability coverage” has the meaning set forth
2 in Section 660.

3 (ii) “Homeowners’ liability coverage” means coverage under
4 a policy of residential property insurance for the legal liability of
5 a natural person or persons for loss of, damage to, or injury to,
6 persons or property, but not including policies primarily insuring
7 risks arising from the conduct of a commercial or industrial
8 enterprise. “Residential property insurance” has the meaning set
9 forth in Section 10087.

10 (iii) “Commercial liability insurance coverage” means coverage
11 under a policy of commercial insurance for the legal liability of
12 any person for loss of, damage to, or injury to persons or property,
13 arising from the conduct of a commercial or industrial enterprise.
14 “Commercial insurance” has the meaning set forth in Section
15 675.5.

16 (iv) “Liability insurance” has the meaning set forth in Section
17 108.

18 (v) “Workers’ compensation coverage” means the coverage
19 described in Sections 4653, 4654, 4655, 4658, 4800, 4800.5,
20 4804.1, 4806, 4816, and 4850 of the Labor Code.

21 (B) Claims for a beneficiary who is making a claim on a life
22 policy or annuity that was delivered to an individual or a group
23 policyholder.

24 (2) A “claim” does not include a liability policy that does not
25 pay for bodily injury, a claim for property damage or loss of use
26 of property, or a claim made against an accident or health
27 insurance policy, whether the policy is an expense incurred policy
28 or an indemnity policy.

29 ~~(a)~~

30 (b) “Insurer” means an organization organized for the purpose
31 of assuming the risk of loss under a contract of insurance or
32 reinsurance, and also includes any of the following organizations:

33 (1) An admitted insurer.

34 (2) A nonadmitted domestic insurer.

35 (3) A nonadmitted foreign insurer.

36 (4) A nonadmitted alien insurer.

37 ~~(b)~~

38 (c) “Obligor” means a person owing a duty of support.

39 ~~(e) “Self-insurer” means an individual public or private entity~~
40 ~~that does not meet the definition of insurer in subdivision (a), but~~

1 ~~that is authorized by this code or any other law to undertake to~~
2 ~~indemnify itself against loss, damage, or liability arising from a~~
3 ~~contingent or unknown event.~~

4 (d) “Self-insurer” means any entity that is self-insured for its
5 legal responsibility without the benefit of primary insurance,
6 through the use of a self-insured retention. This includes, but is
7 not limited to, any entity that directs handling of its claims through
8 a third party or as a result of a policy-buy-back, cost-sharing
9 agreement, or coverage-in-place agreement.

10 (d)

11 (e) “Support” means a support obligation owing on behalf of a
12 child, spouse, or family, or an amount owing pursuant to Section
13 17402 of the Family Code, and includes past due support or
14 arrearage when it exists. “Support,” when used with reference to
15 a minor child or a child described in Section 3901 of the Family
16 Code, includes maintenance and education.

17 ~~13556. An insurer or self-insurer that reports information~~
18 ~~pursuant to this article, or who acts in good faith to comply with~~
19 ~~the rules or regulations implementing this article, is not liable for~~
20 ~~those acts under any law to any person.~~

21 13556. (a) An insurer or self-insurer, and its directors, agents,
22 employees, and insureds, and any insurance claim data collection
23 organization, and its agents and employees authorized by an
24 insurer to act on the insurer’s behalf, that provide or attempt to
25 provide data pursuant to this article are not subject to civil liability
26 under law to any person or entity for alleged or actual damages
27 that occur as a result of providing or attempting to provide data
28 pursuant to this article.

29 (b) Data obtained pursuant to this article may be used only for
30 the purpose of identifying child support obligors. If the Department
31 of Child Support Services does not match data obtained pursuant
32 to this article with a child support obligor, the department shall
33 not maintain that data and shall immediately destroy that data.

34 (c) An insurance claim data collection organization, child
35 support data match program, insurer or self-insurer that provides,
36 attempts to provide, or in any way accesses data pursuant to this
37 article shall comply with all applicable state and federal laws for
38 the protection of the privacy and the security of that data,
39 including, but not limited to, the Insurance Information and Privacy
40 Protection Act (Chapter 1 (commencing with Section 791.01) of

1 *Part 2 of Division 1), the Information Practices Act of 1977*
2 *(Chapter 1 (commencing with Section 1798.80) of Part 4 of*
3 *Division 3 of Title 1.81 of the Civil Code), and the federal Health*
4 *Insurance Portability and Accountability Act of 1996 (Public Law*
5 *104-191).*

6 13558. Until January 1, 2019, the department may issue
7 guidance to an insurer or self-insurer regarding compliance with
8 this article. This guidance shall be exempt from the rulemaking
9 provisions of the Administrative Procedure Act (Chapter 3.5
10 (commencing with Section 11340) of Part 1 of Division 3 of Title
11 2 of the Government Code). Any guidance issued pursuant to this
12 section shall remain effective only until the earlier of January 1,
13 2019, or the effective date of regulations implementing this article
14 that are adopted by the department pursuant to the Administrative
15 Procedure Act. The department shall consult with the Department
16 of Child Support Services when issuing guidance pursuant to this
17 section.

18 ~~13560. An insurer or self-insurer who violates this article shall~~
19 ~~be deemed to have failed to carry out its contract in good faith~~
20 ~~within the meaning of subdivision (b) of Section 704.~~

21 13560. *If an insurer or self-insurer violates Section 13552, the*
22 *commissioner may, in his or her discretion, impose a fine not to*
23 *exceed one thousand dollars (\$1,000) for each violation, and may*
24 *issue an order requiring the violator to comply with Section 13552.*

25 13561. *This article shall become operative July 1, 2016.*

26 SEC. 2. *The Legislature finds and declares that Section 1 of*
27 *this act, which adds Section 13556 to the Insurance Code, of public*
28 *bodies or the writings of public officials and agencies within the*
29 *meaning of Section 3 of Article I of the California Constitution.*
30 *Pursuant to that constitutional provision, the Legislature makes*
31 *the following findings to demonstrate the interest protected by this*
32 *limitation and the need for protecting that interest: In order to*
33 *protect the privacy of insurance claimants and persons owed*
34 *past-due support, it is necessary that data obtained by the*
35 *Department of Child Protective Services from insurers,*
36 *self-insurers, and insurance claim data collection organizations*
37 *pursuant to this act be confidential.*